

Remarks

Applicant has amended Claim 1 and added new Claim 23. Applicant respectfully submits that no new matter was added by the amendment, as all of the amended matter was either previously illustrated or described in the drawings, written specification and/or claims of the present application. For example, support for the amendment to Claim 1 is found in paragraph 0051 and Figure 1 of Applicant's specification. Support for new Claim 23 is found in Claims 1, 3, 4 and 5. Entry of the amendment and favorable consideration thereof is earnestly requested.

Allowable Subject Matter

The Examiner has indicated that Claims 5 – 18 would be allowable if rewritten in independent form. Applicant has therefore added a new Claim 23 that includes Claim 5 rewritten in independent form.

Claim Rejections – 35 USC § 102

The Examiner has rejected Claims 1 – 4 under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,436,122 to Frank et al. ("the Frank patent"). These rejections are respectfully traversed.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verde-gaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053

(Fed. Cir. 1987). Applicant respectfully submits that the Frank patent fails to disclose each and every element of Claim 1 as amended.

Claim 1, as amended, requires that the handle of the inventive endoscopic medical instrument can be secured on the instrument shaft via a coupling element. Furthermore and additional to the securing of the handle on the instrument shaft, it is required that the coupling element serves that the handle can be moved by at least three degrees of freedom with respect to the instrument shaft, wherein one of the degrees of freedom is a translation movement in the direction of a longitudinal axis of the instrument shaft.

The Frank patent discloses a handle 20 for a medical instrument 10 which is secured to an instrument shaft 44 via a coupling portion 42. The handle can be moved by three degrees of freedom with respect to the instrument shaft, namely a horizontal and a vertical pivot movement relative to the instrument shaft (about axes 90 and 64, respectively) and a rotation 124 about the longitudinal axis 66 of the instrument shaft 12. FIG. 1; Col. 5, lines 46-59; Col. 8, lines 48-52; Col. 9, lines 42-51; Col. 10, lines 41-45.

The Frank patent, however, fails to disclose or teach a handle that can be moved in the direction of a longitudinal axis of an instrument shaft. Especially this movement in the direction of the longitudinal axis of the instrument shaft enables an individual positioning of the handle on the instrument shaft. For the foregoing reasons, Applicant re-

spectfully submits that Claim 1 as amended, and Claims 2 – 18 which depend therefrom, are patentable over the prior art of record.

Conclusion

It is respectfully submitted that claims 1 – 18 and 23, all of the claims remaining in the application, are in order for allowance and early notice to that effect is respectfully requested.

Respectfully submitted,

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